

COMMENT BY MICHIGAN HORSE COUNCIL

April 28, 2009, Committee Hearing *re* HB 4610 (Right to Ride legislation)

I am writing as Vice President of the Michigan Horse Council (MHC) and Chairman of its Legislative, Land Use & Environmental Committee. I was a member of the Pigeon River Country State Forest (PRCSF or "the Pigeon") Work Group representing equestrians who were concerned with provisions in the Concept of Management Plan for the the Pigeon approved by the Department of Natural Resources. That Plan significantly reduced access by equestrians in the the Pigeon. While my comments address the recent reduction of equestrian access to PRCSF lands, the issues are equally applicable to the state's policies and practices in its management of many other state recreational lands as well.

By way of background: In 2005, a review and update of the Concept of Management at the Pigeon was requested by the NRC since there had not been a thorough review and modifications to the Concept since 1973. The NRC appointed a 10-person Steering Committee to create a process to update the Concept of Management. Seven subcommittees were created under the Steering Committee, each representing a chapter of the Concept of Management. They were represented by diverse interest groups and were charged with providing recommendations to the Steering Committee to modify the Concept of Management.

Unfortunately, one major and fast-growing user group was not represented on either the 10-person Steering Committee appointed by the MDNR or on any of the 7 subcommittees. There were no equestrians. None at all. Equestrian interests were, therefore, not seriously considered in the review and modifications to the Concept of Management Plan for the Pigeon River Country State Forest.

The MHC did not know anything about the changes proposed to the Concept of Management Plan until November 2007, too late to have meaningful input into the Plan. When word finally got out, there was a barrage of objections filed, the majority by equestrians, and the DNR decided to establish a Work Group to provide additional comments related to cycle and equestrian uses. This Work Group consisted of representatives from the equestrian and mountain bike users groups (3 each), the PRC Advisory Council, the PRC Association, hunting, fishing and trapping user groups, Resource Stewards, and the DNR. It met twice at the Pigeon. My understanding of the problem related to horses is that for about three weeks in the fall, during the elk rutting season in mid-September/early October, there is a major influx of equestrians who ride out and about to view this spectacle. During the rest of the year, horses are pretty scarce in the Pigeon.

As a result of the Work Group meetings, the Plan now includes three new loops for equestrians out of the Elk Hill Campground, and, while better than nothing, it's about the only concession that was made to equestrians. Rejected was the suggestion to keep most service roads open to equestrians, even though no real justification was given for closing them to horses. Rejected were several less restrictive measures proposed to address the issue. Rejected was the request to study the problem for a year before taking any action so as to arrive at a less radical solution for handling the glut of riders during that brief time in the fall, as well as to address any other management or environmental concerns that might be identified during that time. The DNR also rejected out-of-hand recently-published peer-reviewed scientific studies that conclude the

presence of horses on the trails were not responsible for the spread of invasive non-native species.

The DNR's new order takes horses off all but a very select few of the Pigeon's service roads (equestrians are allowed only on those service roads needed to complete the three new loops referenced below). All off-trail riding is strictly prohibited. Horses are confined to the shore to shore trail, forest roads that are marked for equestrian use and public roads. In addition, a few select service road sections and 2-track forest roads are combined to create three new loops for horses out of the Elk Hill campground. The Johnson's Crossing Trail Campground remains open for equestrian use. The 10 Elk Hill campsites that are in the Equestrian Campground proper have been retained, but the 6 outlying campsites at Elk Hill have been closed.

Why has this happened? The following excerpt from the minutes of the April 10, 2008, NRC Meeting presents the DNR's position in the best light:

Mindy Koch, Resource Management Deputy, provided information including maps depicting areas open for mountain biking, shore-to-shore equestrian trail and other areas open for equestrian use.

Ms. Koch provided a history of the PRCFS. In 1919, P. S. Lovejoy, the architect of the DNR, had a vision for the PRCFS and named it "The Big Wild." Today, keeping that in context, the DNR is attempting to maintain this area as "The Big Wild." As of today, 118,000 acres have been dedicated as the PRCFS which was approved in the amended PRCFS Concept of Management.

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The final draft of the Concept of Management was provided to the NRC in October of 2007 and approved by Director Humphries in November of 2007. Since the Concept of Management was approved, Land Use Orders of the Director to address the issues, especially recreational issues, have been posted on the NRC agenda for Director's action. . .

A Work Group had been established to provide additional comments to the DNR related to cycle and equestrian uses. This Work Group consisted of representatives from the equestrian and mountain bike users groups, the PRC Advisory Council, the PRC Association, hunting, fishing and trapping user groups, Resource Stewards, and the DNR. The revisions to the PRCFS Concept of Management were not unanimous.

Ms. Koch said there appears to be a lack of understanding amongst the users of the PRCFS. . . [U]nlike other state forests, a significant amount of Game and Fish Fund monies were used for acquisitions meaning the goal of the area was to encourage fishing and hunting and to preserve that activity in perpetuity; and a core of the elk herd in Michigan is located in the PRCFS and the DNR believes the herd is moving out of the PRCFS.

Currently, Land Use Orders of the Director exist that have requirements for the PRCFS, as well as other State forests, wildlife areas, and State parks. One of the orders prohibits equestrian use on 17 sections within the PRCFS. This is not a new development. These prohibited areas surround the Elk Hill Equestrian Campground and the Johnson's Crossing Trail Campground. The Land Use Order being reviewed and discussed today limits equestrian camping to Elk Hill

Campground and the Johnson's Crossing Campground. It also limits equestrian use to State forest roads, country right-of-ways, the shore-to-shore equestrian trail and a limited amount of closed two-track roads (management roads that do not allow motorized use). That totals 280 miles in the PRCSF available to equestrian use. Bicyclers have about 300 miles of available use in the PRCSF. No campgrounds will be closed by the proposed orders. Closures are due to budget cuts and the DNR hopes to reopen them once funding becomes available. The next step is for the DNR to review 2500 acres of property recently acquired north of the PRCSF (Le Grande Ranch) where the possibility of additional equestrian use may be developed.

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Ms. Koch said one of the major biological concerns with equestrian use in the PRCSF is the disturbance of wildlife habitat or disturbance of threatened and endangered species in sensitive areas. User conflict concerns also exist.

(NRC Minutes, Pages 4 - 6)

To say the revisions to the PRCSF Concept of Management were not unanimous is an understatement. The DNR's position that there is an apparent lack of understanding amongst the users of the The Pigeon is debatable. As the Work Group MHC representative, I view it, rather, as a disagreement regarding the validity of the basis for removing equestrians from the trails they have historically ridden. It appears to me these DNR decisions are the result of reliance on "bad science" and either an improper procedure, or no procedure at all, for making these kinds of specific determinations -- or for modifying the Management Plan in general, for that matter.

One issue for consideration is whether the National Environmental Procedures Act (NEPA) is applicable to the state's management of lands acquired with Pittman Robertson Act funds and, if applicable, the legality of closing trails to equestrians on lands purchased with these federal funds without compliance with NEPA's requirements, which include an environmental impact analysis.

Even if NEPA is held not to be applicable, I believe Michigan citizens (and ultimately Michigan's tourism economy) would benefit from a state law that requires the MDNR to have a procedure similar to that in NEPA, including conducting an environmental impact analysis, before it can close recreational trails on state lands to equestrians (or any other user group, for that matter).

As I understand it, the MDNR's takes the position that, as a general rule, lands purchased all or partially with Pittman Robertson Act funds are not open to equestrians (or any other user group except hikers) unless as a designated special exception, and that such special exception designation can be removed at any time and for any reason. I find no such broad hard-and-fast restriction in the Pittman Robertson Act, nor does the Act require lands contiguous, but not purchased with Pittman Robertson Act funds, to be managed as if they had been. My understanding of MDNR policy is that it requires both Pittman Robertson and all contiguous public lands to be managed as if they were all purchased by Pittman Robertson funds, or so I was told in the Pigeon River Country Work Group meeting. It should be noted that this restriction is imposed by the state and is not a requirement of federal law or the federal government.

It is a fact that Pittman-Robertson Funding has been used to purchase only 11.75 acres of the 118,000 acres that make up the Pigeon River Country State Forest. This represents less than .01

% of total acreage. In addition, another 53,417.31 acres were purchased using the state's Fish and Game Fund.

It is the Michigan Horse Council's position that any state administrative rules that make it the general rule to exclude equestrians on Pittman Robertson Act lands (or state Fish and Game Fund-purchased land) should be regarded as unnecessarily restrictive unless such an exclusion is supported by a NEPA or other review that includes an environmental impact analysis. For example, scientific evidence does not support the position of the DNR that horses spread invasive non-native plant species. Nor is the use of horses on Michigan trails -- even remote, back-country trails -- incompatible with the protection of fish and wildlife. The general rule should be that horses, just as hikers, shall be permitted on all Michigan trailways unless there is some cognizable reason for their exclusion. And there should be a procedure similar to NEPA's with which the state is required to comply in making that determination.

The results of the 2007 Equine Survey recently completed clearly demonstrates how very economically important this industry is to the state, both as a part of agriculture and in the tourism industry. There are now 155,000 equine in Michigan, the vast majority of which are used for recreation. It costs an average of \$3,300 a year in direct expenses to maintain each horse. That figure does not include all of the other associated expenditures: clothing, trucks and trailers, investment in real property & buildings, taxes paid, travel, etc. Altogether, MHC estimates the industry contributes \$8 billion to the state's economy.

Not only do horses make an important contribution to Michigan's economy, but they also provide access to the disabled, to older citizens (and to women in particular) to the state's recreational lands. For this large constituency, horses are the legs and stamina to utilize Michigan's trails. People who could otherwise access trails only in a very limited way can ride them for miles on the back of a horse, indistinguishable while mounted from the more physically able bikers, hikers and hunters with whom they share the land. Policies that regulate against trail access by horses deprive older and physically challenged citizens in favor of those who are physically fit and in their prime (and who happen to be largely men).

Pigeon River Country State Forest is a vacation destination for trail riders both from inside and outside of Michigan. The recent restrictions placed on equestrians by the MDNR is not supportable under any reasonable impact analysis and will likely have a discernible negative impact on the Pigeon as a travel destination for equestrians. If the DNR applies such unfounded discrimination against equestrians to other state recreational lands, whether by ignorance or by influence of competing user groups, the considerable tourism dollars equestrians spend in Michigan will increasingly go elsewhere.

Respectfully submitted,

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Chair, Legislative, Land Use & Environmental Committee
Michigan Horse Council